

**2010 No. 374**

**ELECTRICITY**

**Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) (Amendment) Regulations (Northern Ireland) 2010**

*Made* - - - - *10th November 2010*

*Coming into operation* - *5th December 2010*

The Department of Enterprise, Trade and Investment being a Department designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to energy and energy sources, makes the following Regulations in exercise of the powers conferred by that section.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) (Amendment) Regulations (Northern Ireland) 2010 and shall come into operation on 5th December 2010.

(2) The Interpretation Act (Northern Ireland) 1954<sup>(c)</sup> shall apply to these Regulations as it applies to an Act of the Assembly.

**Amendment of Regulations**

2. Subject to regulation 12(1), the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations (Northern Ireland) 2003<sup>(d)</sup> (“the 2003 Regulations”) are amended by regulations 3 to 11.

**Interpretation**

3. In regulation 2(1) of the 2003 Regulations (interpretation)—

(a) after the definition of “the Authority” insert—

““aerothermal energy” means energy stored in the form of heat in the ambient air;”;

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(a) S.I. 2010/761

(b) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1) and by the European Union (Amendment) Act 2008 (c.7), section 3(3) and Part I of the Schedule

(c) 1954 c. 33 (N.I.)

(d) S. R. 2003 No. 470 as amended by S.R. 2008 No. 507

- (b) for the definition of “biomass” substitute —
  - ““biomass” means the biodegradable fraction of products, waste and residues from biological origin from agriculture (including vegetal and animal substances), forestry and related industries including fisheries and aquaculture, as well as the biodegradable fraction of industrial and municipal waste;”;
- (c) omit the definition of “the Company”;
- (d) for the definition of “the Directive” substitute—
  - ““the Directive” means Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC(a)”.
- (e) after the definition of “electricity produced from renewable energy sources” insert—
  - ““geothermal energy” means energy stored in the form of heat beneath the surface of the solid earth;”;
- (f) after the definition of “guarantee sequence number” insert—
  - ““hydrothermal energy” means energy stored in the form of heat in surface water;”;
- (g) omit the definition of “levy exemption certificate”;
- (h) omit the definition of “qualifying arrangement”;
- (i) for the definition of “recognise”, substitute—
  - ““recognise” in relation to a guarantee of origin means to recognise in accordance with Article 15(9) of the Directive as proof of the elements referred to in Article 15(1) and (6)(a) to (f) of the Directive;”;
- (j) in relation to a guarantee of origin means to recognise in accordance with Article 15(9) of the Directive as proof of the elements referred to in Article 15(1) and (6)(a) to (f) of the Directive
- (k) in the definition of “registered holder” for “paragraph 2(a) of Schedule 2” substitute “paragraph 1(1) of Schedule 2”;
- (l) for the definition of “renewable energy sources” substitute—
  - ““renewable energy sources” means renewable non-fossil energy sources, that is, wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;”;
- (m) after the definition of “storage system” insert—
  - ““support scheme” means any instrument, scheme or mechanism, that promotes the use of energy from renewable sources by reducing the cost of that energy, increasing the price at which it can be sold, or increasing the volume of such energy purchased;”.

### **Designation of the Authority**

4. In regulation 3 of the 2003 Regulations (designation of the Authority as the issuer of guarantees of origin), for “issued”, substitute “issued, transferred, retired, cancelled and revoked”.

### **Request for issue of guarantees of origin**

5. For regulation 4(1) of the 2003 Regulations (request for issue of guarantees of origin and information required), substitute—

“(1) The Authority shall issue guarantees of origin in response to a request from a producer of electricity from renewable energy sources.”.

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(a) OJ L 140, 05.06.2009, p.16

### **Issue and transfer of guarantees of origin**

- 6.—(1) In regulation 6 of the 2003 Regulations (issue and transfer of guarantees of origin)—
- (a) in the heading for “Issue and transfer of guarantees of origin”, substitute “Issue, transfer and retirement of guarantees of origin”;
  - (b) in paragraph (3) for all references to “kilowatt hour” substitute “megawatt hour”;
  - (c) in paragraph (5) for “If” substitute—  
“Subject to paragraph (7), if”;
  - (d) after paragraph (5) add—  
“(6) If the registered holder of a guarantee of origin requests the Authority to retire that guarantee of origin, the Authority shall do so by amending the Register accordingly.  
(7) Once a request under paragraph (6) has been made in relation to a guarantee of origin, that guarantee of origin may not be transferred but shall still be capable of being revoked.  
(8) Where a guarantee of origin has been retired under paragraph (6) it shall be deemed to be cancelled—
    - (a) where the electricity in respect of which it was issued was generated during a period of one month, 19 months after the end of that month; or
    - (b) where the electricity in respect of which it was issued was generated during a period of longer than one month, 19 months after the end of the first month during which the electricity to which it relates was generated.”.

### **Guarantees of origin and the Register**

7. In regulation 7(1)(a) of the 2003 Regulations (guarantees of origin and the register), for “may” substitute “shall”.

### **Cancellation of guarantees of origin**

8. After regulation 7 of the 2003 Regulations (guarantees of origin and the register) insert—

#### **“Cancellation of guarantees of origin**

7A.—(1) Where a guarantee of origin is issued by the Authority in respect of electricity generated—

- (a) during a period of longer than one month, then provided it has not been retired under regulation 6(6) that guarantee of origin shall be cancelled not more than 16 months after the end of that month; or
  - (b) during a period of longer than one month, then provided it has not been retired under regulation 6(6) that guarantee of origin shall be cancelled not more than 16 months after the end of the first month during which the electricity to which it relates was generated.
- (2) Where a guarantee of origin has been cancelled under paragraph (1), deemed to be cancelled under regulation 6(8), or revoked under regulation 8(1) it shall no longer qualify as proof of the share or quantity of electricity generated from renewable energy sources.”.

## **Recognition of guarantees of origin**

- 9.**—(1) In regulation 9 of the 2003 Regulations (recognition of guarantees of origin)—
- (a) in paragraph (2)—
    - (i) for “Article 5(4)”, substitute “Article 15(10)”; and
    - (ii) for “Article 5(1), substitute “Article 15(2)”;
  - (b) for paragraph (3)(b) substitute—

“(b) if it is satisfied that there is good reason to doubt the accuracy, reliability or veracity of the guarantee of origin.”;
  - (c) for paragraph (4)(b) substitute—

“(b) if it is satisfied that there is good reason to doubt the accuracy, reliability or veracity of the guarantee of origin.”;
  - (d) after paragraph (6) insert—

“(7) Where a competent authority acting pursuant to Article 15(9) of the Directive refuses to recognise or withdraws recognition from a guarantee of origin issued by another Member State under paragraph (3) or (4) respectively, it shall notify the Commission of the European Union of its refusal or withdrawal and the justification for such refusal or withdrawal.”.

## **Information to be included in the request for a guarantee of origin**

- 10.** For Schedule 1 to the 2003 Regulations (information to be provided under regulation 4(4) in a request for a guarantee of origin) substitute—

### **“SCHEDULE 1**

Regulation 4(4)

#### **Information to be provided under Regulation 4(4) in a request for a Guarantee of Origin**

- 1.** The name and address of the person requesting the issue of the guarantee of origin (if a body corporate, the registered or principal office) and, if a company, its registered number.
- 2.** Where the person signing the statement required under regulation 4(5) is not the person making the request, the name and address of the person signing the statement.
- 3.** Whether the person requesting the issue of the guarantee of origin is the producer of the electricity in respect of which the guarantee of origin is requested and, if not, the name and address of the producer (if a body corporate, the registered or principal office) and, if a company, its registered number.
- 4.** The energy source from which the electricity (for which the guarantee of origin was requested) was produced.
- 5.** The start and end dates of production of the electricity (for which the guarantee of origin was requested).
- 6.** The name (if any), location, type and capacity of the installation where the electricity (for which the guarantee of origin was requested) was produced.
- 7.** Whether and to what extent the installation specified in paragraph 6 has benefited from investment through any support scheme and, if so, the name of the scheme.

8. Whether and to what extent the electricity for which the guarantee of origin is requested has benefited from any United Kingdom support scheme other than that specified in paragraph 7 and, if so, the name of the scheme.

9. The date on which the installation specified in paragraph 6 became operational.

10. The quantity of electricity in respect of which the guarantee of origin is requested, together with the total quantity of electricity produced by the installation during the period referred to in paragraph 54.

11. Such further information or evidence as the Authority may, in the particular circumstances of the case, reasonably require for the purpose of ascertaining the accuracy of the information required to be provided under paragraphs 1 to 10 or to enable it to be satisfied that any energy source specified in paragraph 4 is a renewable energy source.”.

### **Information to be contained on the Register**

11. For Schedule 2 to the 2003 Regulations (information to be contained on the register) substitute—

## “SCHEDULE 2                      Regulation 2(1) and 7(1)

### Information to be contained on the Register

#### **Registered particulars**

1. In relation to each guarantee of origin issued in accordance with regulation 6—
  - (a) the name and address of the person to whom the guarantee or origin has been, or was originally, issued (if a body corporate, the registered or principal office) and, if a company, its registered number;
  - (b) the date that the guarantee or origin was issued;
  - (c) the fact that the guarantee or origin was issued in the United Kingdom;
  - (d) an identifier, which shall include the guarantee sequence number;
  - (e) the energy source from which the electricity (for which the guarantee of origin is issued) was produced;
  - (f) the start and end dates of production of the electricity (for which the guarantee of origin is issued);
  - (g) the fact that the guarantee of origin relates to electricity (not heating or cooling);
  - (h) the name (if any), location, type and capacity of the installation where the electricity (for which the guarantee of origin is issued) was produced;
  - (i) whether and to what extent the installation specified in sub-paragraph (h) has benefited from investment support through any support scheme and, if so, the type of the scheme;
  - (j) whether and to what extent the unit of energy has benefited from any United Kingdom support scheme other than that specified in sub-paragraph (i) and, if so, the type of the scheme;
  - (k) the date on which the installation became operational;
  - (l) where the guarantee of origin has been transferred in accordance with regulation 6(5), the name and address (if a body corporate, the registered or principal office) and, if a company, the registered number, of the last person to whom it has been transferred.

### Other information

2. A list of guarantees of origin that have been—
- (a) retired under regulation 6(6) (but not revoked under regulation 8), including the dates of retirement;
  - (b) cancelled under regulation 7A, including the dates of cancellation;
  - (c) revoked under regulation 8, including the dates of revocation.”

### Transitional provisions

12.—(1) Nothing in these Regulations affects—

- (a) the issue and revocation of guarantees of origin issued before 5th December 2010, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to such issue or revocation, under the 2003 Regulations;
- (b) any obligations or requirements relating to guarantees of origin issued before 5th December 2010, imposed on a producer of electricity from renewable energy sources or some other person in respect of those guarantees of origin, and anything which falls to be done or determined (whether by producer or some other person) in relation to those guarantees, under the 2003 Regulations;
- (c) any obligations and functions of the Authority in respect of guarantees of origin issued before 5th December 2010, and anything which falls to be done or determined (whether by the Authority or some other person) in relation to those guarantees of origin under the 2003 Regulations.

(2) In this regulation “the Authority” means the Northern Ireland Authority for Utility Regulation established under Article 3 of the Energy (Northern Ireland) Order 2003(a).

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 10th November 2010.



*Fiona Hepper*  
A senior officer of the  
Department of Enterprise, Trade and Investment

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(a) S.I. 2003/419 (N.I.6); the name of the Authority was changed by Article 3 of the Water and Sewerage Services (Northern Ireland) Order 2006, S.I. 2006/3336 (N.I. 21)

## EXPLANATORY NOTE

*(This note is not part of the Order)*

These Regulations further amend the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations (Northern Ireland) 2003 (“the 2003 Regulations”) and make transitional provision.

These Regulations and the 2003 Regulations implement in Northern Ireland Article 15 of Directive 2009/28/EC of the European Parliament and the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009.p.16) (“the Directive”).

Regulation 3 amends the interpretation provisions in regulation 2 of the 2003 Regulations.

Regulation 4 amends regulation 3 of the 2003 Regulations to provide that renewable energy guarantees of origin (“REGOs”) are to be issued, transferred, retired, cancelled and revoked by the Northern Ireland Authority for Utility Regulation (“the Authority”).

Regulation 5 substitutes paragraph (1) of regulation 4 of the 2003 Regulations to provide that REGOs shall be issued in response to a request from a producer of electricity from renewable energy sources.

Regulation 6 amends regulation 6 of the 2003 Regulations to introduce the concept of the retirement of REGOs, and provide that a REGO may not be transferred after it has been retired. These amendments ensure that REGOs can be counted by the Authority for the purposes of the fuel mix disclosure requirements in Article 3(9) of Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC. They also include an amendment to change the unit of energy in respect of which REGOs are issued from kilowatt hour to megawatt hour.

Regulation 7 amends paragraph (1)(a) of regulation 7 of the 2003 Regulations to provide that the Register of REGOs established and maintained by the Authority shall be held electronically.

Regulation 8 inserts new regulation 7A into the 2003 Regulations to provide for the cancellation of a REGO not later than 16 months after the end of the first month during which the electricity to which it relates was generated. The provision does not apply where a REGO has been retired. New regulation 6(8) of the 2003 Regulations (inserted by regulation 6(d) of these Regulations) provides that such a REGO shall be deemed to be cancelled 19 months after the end of the first month during which the electricity to which it relates was first generated.

Regulation 9 amends regulation 9 of the 2003 Regulations to update references to the Directive and sets out the circumstances in which the Authority may refuse to recognise a REGO issued by another Member State.

Regulation 10 substitutes Schedule 1 to the 2003 Regulations to set out the information that is to be provided under regulation 4(4) of the 2003 Regulations in making a request for a REGO.

Regulation 11 substitutes Schedule 2 to the 2003 Regulations to set out the information that under regulation 7(1) is to be contained on the Register of REGOs.

Regulation 12 makes transitional provision in respect of the issue and revocation of REGOs issued before 5th December 2010.

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